

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:18-cv-00657-FDW-DCK

NATHANIEL CANNON,)
)
Plaintiff,)
)
vs.)
)
CHARTER COMMUNICATIONS,)
)
Defendant.)
)
)

ORDER

THIS MATTER is before the Court on Plaintiff's Motion to Request Trial Transcript, (Doc. No.125).

Defendant responded in opposition to the motion, (Doc. No. 126), asserting that Plaintiff's motion is untimely under the Informal Briefing Order issued by the Fourth Circuit Court of Appeals in the appeal of this matter that required Plaintiff to order the transcript within fourteen days of the notice of appeal. (See Doc. No. 126-1, ("[A]ppellant **must** order the transcript within 14 days of filing the notice of appeal, using the court's Transcript Order Form." (Emphasis added.)). Plaintiff filed his Notice of Appeal on January 24, 2022, thus making February 7, 2022, the deadline for ordering the transcript. Plaintiff filed this instant motion on March 7, 2022, nearly a month past the deadline set by the Fourth Circuit.

Plaintiff did not respond to Defendant's arguments regarding the timeliness of his motion or otherwise provide this Court with documentation of his timely submission of the Fourth Circuit

Court of Appeals Transcript Order Form that the Informal Briefing Order clearly requires.¹ Furthermore, based on the recent Fourth Circuit opinion ruling on Plaintiff's appeal, it does not appear Plaintiff ever submitted the Transcript Order Form or otherwise requested from the Fourth Circuit an extension of time to order the transcript or other leave to amend the Informal Briefing Order issued by that court. Indeed, the Fourth Circuit noted, "By failing to produce a transcript or to apply for the production of a transcript at government expense, Cannon has waived review of the issues raised on appeal that depend on the transcript to establish error." Cannon v. Charter Communications, No. 22-1076, 2022 WL 2355498 (4th Cir. June 28, 2022); (also found on this docket at Doc. No. 17, p. 2).

The decision of the Fourth Circuit Court of Appeals moots Plaintiff's motion. Id. Additionally, Plaintiff failed to comply with the transcript order deadline set by the Fourth Circuit Court of Appeals, and absent an indication from the Fourth Circuit that such deadline was extended or amended, Plaintiff's motion to this Court was untimely.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Request Trial Transcript, (Doc. No. 125), is DENIED.

IT IS SO ORDERED.

Signed: July 7, 2022


Frank D. Whitney
United States District Judge

¹ Along with his motion, Plaintiff included a copy of his Informal Brief to the Court of Appeals for the Fourth Circuit, (Doc. No. 125-1), but he did not otherwise indicate he had submitted the Transcript Order Form required by the Informal Briefing Order or attach a copy of that form to his motion or in any reply brief.